Government
Publications

ONTARIO

THE ONTARIO MUNICIPAL BOARD

55TH ANNUAL REPORT

by

THE ONTARIO MUNICIPAL BOARD

Upon the Affairs of The Board

During the Year Ended

December 31, 1960

TO: THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

Pursuant to Section 100 of
The Ontario Municipal Board Act
R.S.O. 1960, Chapter 274

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PART I

ESTABLISHMENT AND OPERATION

The Ontario Municipal Board was established under the authority of The Ontario Railway and Municipal Board Act, 1906. The present organization of the Board is provided for in The Ontario Municipal Board Act, (R.S.O. 1960, c. 274). The Board carries out and performs statutory duties and functions only and while it is a corporate body, the practise is strictly followed of assigning members to specific applications and thereafter they are considered seized of such application. If a change must be made for an unavoidable reason the hearing is commenced de novo. The Board is given jurisdiction under a large number of statutes but its procedure and general powers are governed by The Ontario Municipal Board Act. Two members are a quorum to hear and dispose of any application and the Chairman may appoint one member to hear any application and report to the Board. In such cases the decision or order is made by two other members, one of whom must be the Chairman or a vice-chairman.

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PART II

MEMBERSHIP AND ORGANIZATION

The membership and organization of the Board during the period covered by this report was as follows:

L. R. CUMMING, M.A., Q.C. (Appointed Deputy Minister of Municipal Affairs February 1, 1960)	Chairman
J. A. KENNEDY, Q.C. (Appointed Vice-Chairman of the Board October 1, 1956; (Appointed Chairman of the Board February 1, 1960)	Chairman
R. C. ROWLAND (Deceased: March 22, 1960)	Vice-Chairman
C. W. YATES, Q.C. (Appointed General Municipal Counsel, Department of Municipal Affairs, March 1, 1960)	Vice-Chairman
R. L. KENNEDY (Appointed February 15, 1951)	Vice-Chairman
J. R. TURNBULL (Appointed June 1, 1960)	Vice-Chairman
C. F. NUNN (Appointed July 1, 1952)	Member
W. GREENWOOD, B.Sc. (Appointed January 1, 1953)	Member
D. JAMIESON (Appointed December 1, 1955)	Member
V. S. MILBURN (Appointed April 1, 1956)	Member
A. L. McCRAE (Appointed December 1, 1958)	Member

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B. VICKERS (Appointed by order of the Board dated December 14, 1959)	Acting Secretary

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All members and staff are full-time employees and the Board's offices during the year were located in the Ontario Government Building at 145 Queen Street West, Toronto.

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PART III

JURISDICTION AND FUNCTIONS

The Ontario Municipal Board is one of a number of boards and commissions in the province exercising an administrative jurisdiction, a procedure which has come to be known as the administrative process. To the three basic divisions of government: legislative, executive and judicial, there has been added in many jurisdictions a fourth division or repository of authority which is the administrative process and which borrows from the executive and from the judicial. In certain cases, such as for example the approval of tariffs and rate structures, the administrative function could be said to borrow in a measure from the legislative, but this does not apply to any function of the Ontario Municipal Board.

Under many of the statutes which repose jurisdiction in the Board a duty is imposed to hold a hearing and, of course, there is in addition a general power given to the Board under The Ontario Municipal Board Act to hold such public hearings as to the Board may seem necessary. The courts have held that where a tribunal such as this Board is required to hold a hearing the rules of natural justice apply. These are:

1: That the tribunal shall be free from bias.

2: That all persons having an interest in the subject matter shall be heard.

This latter might be said to be the cardinal reason for the introduction of the administrative process into the machinery of government, to ensure that decisions would not be made administratively without the individual being given every opportunity to develop his case at a public hearing.

The actual duties and functions of the Board are found largely in The Municipal Act, The Assessment Act, The Planning Act and the school Acts, but in addition there is a myriad of

other statutory provisions which confer jurisdiction on the Board in a very wide variety of cases. The functions and jurisdiction of the Board may be divided into two general categories:

1: Responsibility for the sound growth and development of municipalities within the framework of the statutes with particular regard to economic stability.

2: Jurisdiction as arbitrator in the first instance or by way of appeal to determine compensation to be paid by the Crown in the right of Ontario or its Crown corporations, municipalities and other local authorities, and certain private corporations.

These two divisions are reported on in Parts IV and V of this report respectively.

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PART IV

GROWTH AND ECONOMIC STABLILITY OF MUNICIPALITIES

This part of the Board's jurisdiction can be divided under the following headings:

1: Constitution, Boundary Revision and Dissolution of Municipalities.

2: Approval of Capital Undertakings and of the Imposition of Rates and Levies to Recover the Cost Thereof.

3: Approval of Restricted Area By-laws, Official Plans and Plans of Subdivision.

4: Assessment.

SECTION 1

Constitution, Boundary Revision and Dissolution of Municipalities

During the year the Board ordered the incorporation of four villages and the erection of one village into a town. Another application dealt with was the separation of the United Townships of Herschel and Monteagle into two separate townships.

Given in Schedule "A" to this report is a list of amalgamation and annexation decisions delivered during the year. Worthy of particular note is the annexation to the City of London of very substantial areas out of the Townships of London and Westminster. While the Board ordered annexation of considerably less than the area applied for by the City of London nevertheless the order which came into effect on January 1st, 1961 increased the population of the City by approximately one-half.

The annexation to the City of Welland of parts of the Townships of Crowland, Thorold, Pelham and Humberstone resulted in the population and the assessment of the city being more than doubled.

The amalgamation of the City of St. Catharines, the Township of Grantham and the Towns of Merritton and Port Dalhousie

may be regarded as a major step in bringing a large and growing community in the Niagara Peninsula under a unified local government. By a further order of the Board made upon the application of the Township of Niagara the rural part of the Township of Grantham lying east of the Welland Canal and still largely in use for fruit farming was annexed to the Township of Niagara for the purpose of retaining and protecting this important agricultural use.

SECTION 2

Approval of Capital Undertakings and of the Imposition of Rates and Levies to Recover the Cost Thereof

Perhaps the most important work of the Board in protecting the economic stability of a municipality is the approval of capital expenditures to be made by municipalities and the consequent control of their debt. It is of prime importance that the debt of each municipality be kept at such a level that the amount required annually to pay interest and instalments of capital will not prove at any time a tax burden which the ratepayers will be unable to bear. It is also very important to guard the ratepayers against too sharp an increase in debt over a relatively short period of time as this would result in a sharp increase in the tax rate and consequent hardships. The policy of this Board, therefore, is to approve only those capital expenditures which the municipality can afford and to guard carefully against any sharp increase in taxes which could result in undue burden on the taxpayer.

Expanding a practice during the year which had been introduced previously the Board requested a capital budget or forecast from a number of municipalities which, in the opinion of the Board, were approaching a safe limit for capital debt. These forecasts set forth, year by year, anticipated undertakings and the estimated cost of each, capital debt retirements in each year, and anticipated increase in assessment also in each year. Such a study is prepared

after consideration by the council of its own probable needs and after consultation with all local boards entitled to call on the council for the financing of capital works. This innovation proved of great value to the municipalities as an incentive to proper planning and staging of needed works, and provided a very important guide for the Board in assessing the need for the various projects proposed for approval as well as the financial capacity of the municipality to undertake any given work.

Various ancillary duties are imposed on the Board to approve special rates for capital works such as under section 8 of The Local Improvement Act and section 380 of The Municipal Act. In these cases the Board follows the policy of having notice given as required by statute or according to the Board's directions to those upon whose lands a special rate would be levied. If objections are made which appear to be of any substance the Board appoints a hearing before considering the application for approval.

A further duty with respect to municipal financing is the function of approving debenture by-laws and certifying the validity of debentures under sections 57 and 58 of The Ontario Municipal Board Act. This is of great value to municipalities in marketing debentures and is extensively used in preference to having the validity of debentures supported by a legal opinion. The result of the Board's approval of the debenture by-law and certification of the debentures is provided in section 61 of the Act as follows:

> "61. Notwithstanding the provisions of any Act, every by-law of a municipality approved by the Board and every debenture issued thereunder bearing the seal and certificate of the Board is for all purposes valid and binding upon the corporation of the municipality and the ratepayers thereof and upon the property liable for any rate imposed under the by-law, and the validity of the by-law and every such debenture shall not be contested or questioned in any manner."

Of course the signing of every debenture involves a tremendous amount of detail and this year the Board has requested legislation

that would permit the certification of debentures by mechanical means protected by necessary safeguards and guarantees.

Under The Ontario Water Resources Commission Act the commission is empowered to make an agreement with any municipality for the construction by the commission of sewage works or water-works as agent for the municipality. Under such an agreement the commission constructs the work in the municipality and usually has charge of the operation until the cost of construction and all charges have been repaid by the municipality in full. Under the Act applications for the approval of this Board are made by the commission on behalf of the municipality. The obligation assumed by a municipality is treated by this Board as an addition to the capital debt and as a general rule the Board follows the same principle and practice with respect to approval of these applications as in the case of other applications by or on behalf of a municipality for approval of capital expenditures. Where any part of the cost is to be raised by the municipality by a special rate, the Board requires public notice and if objections of any substance are made, a public hearing is held.

The following table shows the number of new capital expenditure applications received in the year 1960 and the total amount approved in each of the past four years:

Year	Number	Amount
1957	1,970	$ 258,634,295.33
1958	2,225	511,859,511.57*
1959	2,567	284,040,812.67
1960	2,415	317,940,371.21

* The amount approved in 1958 includes the cost of $200,948,000 and a debenture issue of $113,208,000 for the construction of the subway.

A detailed classification of municipal capital expenditures approved during the year 1960 will be found in Schedule "B" to this report together with comparative totals for the previous year.

SECTION 3

Approval of Restricted Area By-laws, Official Plans and Plans of Subdivision

The jurisdiction conferred on the Board under this heading is contained in The Planning Act. The number of applications made to the Board under this legislation during the year is as follows:

Applications for approval of restricted area by-laws	837
Applications for approval of plans of redevelopment	1
Applications for approval of proposed plans of subdivisions	18
Applications for approval of proposed official plan amendments	32
Applications for a declaration that a restricted area by-law is in conformity with the official plan	5
Appeals to the Board for a direction that a restricted area by-law be amended	66
Appeals from Committees of Adjustment	114

Under section 30 of the Act by-laws prohibiting, restricting and regulating the use of land under the powers contained in that section come into force only with the approval of this Board. Under the present provisions of the statute the Board is empowered to give approval to such by-laws only after a public hearing on such proper notice as the Board directs. If one considers the number of such by-laws passed in the province during one year the very great amount of the Board's time which is taken up in carrying out this duty will be apparent. As may be expected a great number of these by-laws meet with substantial and serious objection on the part of land owners and others who deem their

rights adversely affected by the enactments. A certain number of these hearings do amount merely to a formality, but in the majority of cases there are substantial objections and a considerable amount of time, often several days, is required to complete the hearing.

In these cases and particularly in cases under subsection (19) where the Board is given jurisdiction to direct that a restricted area by-law shall be amended by the council, this Board is entrusted with the duty of reviewing the action of the local council or its failure to act. By statute the council is given a discretion to pass by-laws with respect to matters of land use and subsequently to amend any by-law or refuse an amendment as the council may decide. On each hearing the Board considers all evidence adduced and, after weighing the facts and all pertinent considerations, it must decide if the council has made a reasonable exercise of the discretion given to it by the statute. If it appears that the discretion has been exercised reasonably then the Board upholds the action of the council by approving the by-law or refusing to order an amendment as the case may be. If the Board comes to the conclusion, after due deliberation, that there has not been a proper exercise of discretion by the council then the Board refuses approval of the by-law which has been passed or directs an amendment as may be required. Obviously this is a very important responsibility and in each case the Board is obliged to consider in detail and weigh very carefully the decision which has been made by the local council and the reasons for the same before it will refuse to approve a by-law or make an order requiring that an amendment shall be passed by the council.

Also under the same Act is the duty of the Board to review a proposed official plan, a proposed amendment to an official plan or a proposal that the council shall be required to adopt an amendment to an official plan. In all these cases the Board is given

jurisdiction upon a reference under the Act by The Honourable the Minister of Municipal Affairs. These applications follow the usual course of a public hearing before the Board held in the municipality concerned after notice to those persons whom the Board deems to be interested in the subject matter of the application.

The Board also has the duty under the same statute upon a reference by the Minister to hold a hearing and approve or refuse to approve a proposed plan of subdivision. The following table shows the number of hearings under this legislation before the Board in the year 1960:

Approval of by-laws and appeals for an order directing amendment of by-laws	736
Approval of redevelopment plan	1
Approval of plans of subdivision	8
Approval of official plan amendments	21
Declarations that by-laws conform to official plan	6

Also under this heading is the jurisdiction given to the Board under The Planning Act to hear appeals from committees of adjustment. During the year 106 of these appeals were heard by the Board.

SECTION 4

Assessment Appeals

During the year 1960 the Board heard assessment appeals under several statutes as follows:

The Assessment Act	118
The Power Commission Act	1
The Local Improvement Act	2
The Mining Tax Act	1

Also, there were heard during the year 6 appeals for a review of the division of liability among municipalities comprising high school districts.

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PART V

ARBITRATIONS IN RESPECT OF COMPENSATION FOR LANDS TAKEN OR INJURIOUSLY AFFECTED

While the jurisdiction given to the Board to determine compensation or damages to be allowed for lands taken or injuriously affected appears on the face of it to be an administrative jurisdiction nevertheless the courts have held that strict rules of evidence and what amounts to reasonably strict court procedure must be followed in these cases. As required by the rules of natural justice the Board's decisions must be based only on known evidence and after a full hearing conducted according to legal principles. During the year 1960 the Board heard applications for the determination of compensation or damages to be allowed for lands taken or injuriously affected by provincial or municipal authorities and by private corporations with the right of expropriation as follows:

The Conservation Authorities Act	3
The Highway Improvement Act	41
The Municipal Act	19
The Power Commission Act	1
The Public Works Act	1
The Pipe Lines Act	15
The St. Lawrence Development Act	4
The Ontario Water Resources Commission Act	5

The jurisdiction given to the Board under The Pipe Lines Act and under the conservation Acts is an appellate jurisdiction while that given under the other statutes listed above is a jurisdiction to sit as arbitrator in the first instance.

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PART VI

DUTIES AS DRAINAGE REFEREE

For several years the Board has acted as Drainage Referee. This work consists mainly of hearing appeals from reports of engineers under The Municipal Drainage Act and The Ditches and Watercourses Act. There is nothing remarkable about this part of the Board's work. During the year 1960 the Board heard four appeals which, as noted, consumed sixteen days of hearings, or more than three weeks of the time of two members.

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PART VII

VOLUME OF WORK

As noted earlier, the statutes conferring jurisdiction on this Board require a hearing in a very large number of cases. With few exceptions these hearings are held in the municipality or locality concerned and in the very great majority of cases two members are required to conduct the hearing. When the length of many of these hearings is considered and when the amount of time consumed in travelling is calculated it will be found that a very substantial part of the time of each member of the Board is pre-empted by this part of the work leaving far too little time to consider reserved decisions and to take care of the considerable number of matters coming before the Board for attention in Chambers.

Given below are tables showing the number of applications received in the years 1959 and 1960 and the number of orders issued, divided between capital expenditures and miscellaneous, and showing also the number of days of public hearings in which the Board was engaged during the year.

Number of Applications received:

	1960	1959
Capital Expenditures	2,415	2,567
Miscellaneous	1,553	1,801
Totals -	3,968	4,368

Number of Orders issued:

Capital Expenditures	3,710	3,692
Miscellaneous	922	1,144
Totals -	4,632	4,836

Number of Public Hearings
in the year 1960

Amalgamations & Annexations	57
Incorporations & Erections	6
Arbitrations to Fix Compensation	193
Drainage and Ditches & Watercourses Appeals	16
Assessment Appeals	117
Local Improvement Applications	9
Restricted Area By-laws	793
Capital Expenditures and Dispensation of Vote	404
Special Legislation	6
	1,601

N o t e :

The above figures show the number of applications dealt with at public hearings during the year. Where a hearing lasted more than one day the number of extra days required has been added in each case to increase the total number shown above.

It was after a study of the foregoing facts and figures and after deliberating on the situation as it appeared that the Board took the liberty in the year 1960 of proposing certain amendments to the statutes which might avoid the necessity of a public hearing in those cases where such elimination would not impair the Board's effectiveness, endanger a due performance of the Board's duties and responsibilities or in any way limit the right of those concerned to be heard.

J. A. KENNEDY
CHAIRMAN

C. F. NUNN
MEMBER

R. L. KENNEDY
VICE-CHAIRMAN

W. GREENWOOD
MEMBER

J. R. TURNBULL
VICE-CHAIRMAN

D. JAMIESON
MEMBER

V. S. MILBURN
MEMBER

B. VICKERS
ACTING SECRETARY

A. L. McCRAE
MEMBER.

This is SCHEDULE "A" to the 55TH ANNUAL REPORT of the ONTARIO MUNICIPAL BOARD

for the year 1960, made to

THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

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DECISIONS GRANTING ANNEXATION - 1960

Date of Decision	To	From	Effective Date	Acreage
Jan. 22, 1960	Port Dover Town	Woodhouse Township	Jan. 1, 1961	37.94
Jan. 26, 1960	Brampton Town	Chinguacousy Township	Mar. 1, 1960	3,600.
Jan. 26, 1960	St. Thomas City	Yarmouth Township	Jan. 1, 1961	1,789.44
Feb. 3, 1960	Aylmer Town	Malahide Township	Apr. 1, 1960	337.36
Feb. 4, 1960	Trenton Town (Hastings Co)	Murray Township (Northumberland Co)	Mar. 31, 1960	30.
Feb. 8, 1960	Clinton Township	Louth Township	Mar. 31, 1960	208.
Apr. 11, 1960	Galt City	North Dumfries Township	June 1, 1960	14.84
May 9, 1960	London City	London Twp. Westminster Twp.	Jan. 1, 1961	34,531.
June 6, 1960	Dowling Township	Fairbanks Unorganized Twp.	Jan. 1, 1961	2,632.
June 15, 1960	Peterborough City	North Monaghan Township	Aug. 1, 1960	4.604
July 21, 1960	Lindsay Town	Ops Township	Jan. 1, 1961	2,200.
Sept. 21, 1960	Windsor City	Sandwich West Township	Nov. 1, 1960	12.
Oct. 3, 1960	Welland City	Crowland Twp Humberstone Twp. Pelham Twp. Thorold Twp.	Jan. 1, 1961	4,074. 50. 273. 2,311.
Oct. 12, 1960	Richmond Hill Town	Vaughan Township	Jan. 1, 1961	4.
Oct. 12, 1960	Richmond Hill Town	Vaughan Township	Jan. 1, 1961	5.773
Oct. 26, 1960	Fonthill Village	Pelham Township	Jan. 1, 1961	2.61
Oct. 28, 1960	Simcoe Town	Townsend Township	Jan. 1, 1961	1.34

Schedule "A" - continued

Date of Decision	To	From	Effective Date	Acreage
Oct. 31, 1960	Simcoe Town	Woodhouse Township	Jan. 1, 1961	94.16
Nov. 3, 1960	Hanover Town	Bentinck Township	Jan. 1, 1961	80.
Nov. 14, 1960	Niagara Township	Grantham Township	Jan. 1, 1961	4,300.

AMALGAMATION GRANTED - 1960

Sept. 14, 1960	St. Catharines City	(Grantham Twp. (Port Dalhousie, Town (Merritton, Town.	Jan. 1, 1961	-

This is SCHEDULE "B" to the 55TH ANNUAL REPORT of the ONTARIO MUNICIPAL BOARD

for the year 1960, made to

THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

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CLASSIFICATION OF MUNICIPAL CAPITAL EXPENDITURES

APPROVED DURING 1960

I - MUNICIPAL

	Amount Approved	Totals 1960	1959
1) General Government			
Civic Buildings	$ 4,325,018.40		
Civic Equipment	111,038.55	$ 4,436,056.95	$ 7,265,786.85
(2) Protection to Persons & Property			
Fire	1,216,966.14		
Police	11,000.00		
Court Houses & Jails	2,000,000.00		
Street Lighting	485,809.82	3,713,775.96	8,522,208.36
(3) Public Works			
(a) Expressways	1,950,000.00		
Streets, Roads, Lanes	35,709,557.37		
Sidewalks	3,807,777.23		
Bridges	11,289,333.23		
Tunnels, Subways	2,057,192.00		
Road Machinery	711,540.46		
Workshops & Yards	241,000.00	55,766,400.29	53,562,768.96
(b) Watermains	16,593,765.96		
Storm Sewers	23,925,317.68		
Waterways	200,000.00		
Shore Protection	90,000.00		
Viaducts	1,200,000.00	42,129,612.85	37,148,897.59
(4) Sanitation and Waste Removal			
Sanitary Sewers	26,827,830.07		
Sewage Treatment Works	11,928,447.73		
Garbage & Waste Collection	3,359,790.05		
Street Flushing	13,545.00	42,129,612.85	24,768,450.29
(5) Health			
Hospital Grants	16,526,932.00	16,526,932.00	9,150,094.50
(6) Social Welfare			
Welfare Offices	71,882.90		
Homes for the Aged	7,460,324.19	7,532,207.09	5,379,978.30

Schedule "B" - continued

I - MUNICIPAL

	Amount Approved	Totals 1960	Totals 1959
(7) Recreation Services			
Parks	$ 2,758,507.60		
Skating Rinks, Arenas	1,547,882.00		
Swimming Pools, Beaches	952,793.90		
Community Centres	1,762,351.13	$ 7,021,534.63	$ 5,571,432.00
(8) Community Services			
Exhibitions, Fairs	3,320,000.00		
Libraries	1,124,968.13		
Housing	1,190,145.00	5,635,113.13	961,092.00
General Government		$184,770,716.54	$152,330,708.85

II - EDUCATION

Elementary Schools	$ 57,856,005.29		
Secondary Schools	46,296,518.64	$104,152,523.93	$ 95,475,429.27

III - UTILITIES AND MUNICIPAL ENTERPRISES

Electric Utilities	$ 8,080,421.14		
Water Works	6,177,676.11		
Municipal Telephone	1,222,300.00		
Acquisition of Lands (Industrial)	6,298,000.00		
Transportation	3,423,268.50		
Others - Including Parking Lots	3,815,464.99	$ 29,017,130.74	$ 36,234,674.55

SUMMARY

General Government	$184,770,716.54	$152,330,708.85
Education	104,152,523.93	95,475,429.27
Municipal Enterprises	29,017,130.74	36,234,674.55
	$317,940,371.21	$284,040,812.67

Schedule "B" - continued

CAPITAL EXPENDITURES - 1960

Separate Statement of Local Debt and General Debt

General Government	Local Debt	General Debt	Total
1 & 2		$ 4,436,056.95 3,713,775.96	$ 8,149,832.91
Public Works	$43,201,619.23	54,573,864.70	97,775,483.93
Sanitation	16,015,211.40	26,114,401.45	42,129,612.85
Health		16,526,932.00	16,526,932.00
Local Welfare		7,532,207.09	7,532,207.09
Recreation Services		7,021,534.63	7,021,534.63
Community Services		5,635,113.13	5,635,113.13
Education		104,152,523.93	104,152,523.93
Electric Light		8,080,421.14	8,080,421.14
Water Area		6,177,676.11	6,177,676.11
Telephone		1,222,300.00	1,222,300.00
Acquisition of Lands (Industrial)		6,298,000.00	6,298,000.00
Other - includes Parking Lots		3,815,464.99	3,815,464.99
Transportation		3,423,268.50	3,423,268.50
	$59,216,830.63	$258,723,540.58	$317,940,371.21